

Domestic Relations Committee
Judicial Conference of Indiana

Minutes
October 17, 2003

The Domestic Relations Committee met at the Indiana Judicial Center in Indianapolis, Indiana on Friday, October 17, 2003, from 10:30 a.m.- 3:30 p.m.

1. Members present. David C. Chapleau, Thomas J. Felts; Mary Margaret Lloyd; Roderick D. McGillivray, Keith A. Meier, Richard G. Striegel and Michael P. Scopelitis, Chair.
2. Staff present. Jeffrey Bercovitz provided the committee with staff assistance.
3. Minutes approved. The minutes from August 15, 2003 meeting were approved.
4. Guests present. Leslie Rodgers, Director, GAL/CASA and Kurt Snyder, Director and Counsel, Judicial Technology and Automation Committee, Division of State Court Administration were present.
5. New members. Judge Scopelitis welcomed David C. Chapleau, Mary Margaret Lloyd and Roderick D. McGillivray as new members of the committee. He thanked outgoing members Cynthia J. Ayers, Scott R. Bowers, Daniel F. Donahue and Kathy R. Smith for their service to the committee.
6. ADR Fund in Domestic Relations cases.
 - a. Jeffrey Bercovitz distributed the plans for implementation of the ADR funds from Henry and Monroe counties. He also distributed draft standards, guidelines and annual report form for the establishment of the \$20.00 ADR fund for implementation of HEA 1034.
 - b. Judge Felts reported the ADR committee of the Judicial Conference of Indiana met and recommended no changes to the draft standards, guidelines and annual report for previously distributed. Jeffrey Bercovitz reported the Juvenile Justice Improvement Committee reviewed the draft and recommended the word "currently" be added after the word "party" in standard six. In addition, they said the fee would not be collected in many IV-D paternity cases since a filing fee was not charged in the majority of these cases. Members of the committee made revisions and approved the standards, guidelines and annual report. See attachment No.1. They agreed to place them on the committee website.
 - c. Leslie Rodgers discussed questions received recently by the Division of State Court Administration with the committee, which is required to approve the plans filed with the Judicial Conference of Indiana under ADR Rule 1.11. The committee expressed confidence in her interpretation of the statute and agreed to work with her as additional questions of general importance arose.
 - d. Judge Scopelitis distributed a letter dated October 8, 2003 from Lilia Judson concerning the training of counties interested in developing local ADR plans under HEA 1034. Leslie Rodgers discussed the role the committee could have in this training. Committee members expressed interest in participating in the education of judges about this new fund and the recently revised child support rules and guidelines during the district meetings in Spring 2004 conducted by the Judicial Center.
7. JTAC.
 - a. Kurt Snyder, Director and Counsel, Judicial Technology and Automation Committee (JTAC), Division of State Court Administration, discussed preparation of a bare basic Excel downloadable child support calculator for use with the new child support rules and guidelines. Judge Scopelitis said other states provided similar calculators. Kurt Snyder said JTAC would discuss the purchase of a

second program, the Marion County calculator that is geared for use by laypersons. The committee agreed to try out the new calculators. He plans to have the basic calculator developed before January 1, 2004, the effective date of the new guidelines.

b. Kurt Snyder asked committee members how they deal with UCCJL and UIFSA cases and how they could be placed on JTAC's case management system. Committee members would like a jurisdictional checklist being available for both statutes.

8. Child Custody and Support Advisory Committee.

a. Jeffrey Bercovitz distributed minutes from the legislature's Indiana Child Custody and Support Advisory Committee dated September 29, 2003 and a copy of PD 3350 concerning binding arbitration of family law cases if the parties agree.

b. Judge Scopelitis reported he made a presentation on Indiana's new child support rules and guidelines to the Advisory Committee during their meeting on August 16, 2003. He indicated about eighteen to twenty states have a parenting time credit and none have lost federal monies. He said a few states experienced concern for potential confusion over implementing a much more complicated parenting time credit than Indiana's, but the concerns were later alleviated by experience with the new credit. The Advisory Committee had voted at their September meeting to write a letter to the leadership of the General Assembly requesting permission to write a letter to the Chief Justice of Indiana requesting a six month delay in implementing the new parenting time credit in the support guidelines. The Advisory Committee struck the delay language from that letter and agreed to request permission to express general concern only about the new credit.

c. Judge Scopelitis agreed to write a letter to Justice Shepard summarizing his talk to the Advisory Committee. He also agreed to meet with prosecutors and the Child Support Bureau of the Family and Social Services Administration to address any concerns with the parenting time credit.

d. Committee members had no opinion concerning binding arbitration of family law cases if the parties agree, PD 3350, prepared by the Advisory Committee

9. New committee project. Committee members discussed the following ideas for new committee projects:

a. Review of forms on the Pro Se website for family law cases.

b. Preparation of domestic relations benchbook.

c. Creation of spousal maintenance guidelines predissolution. They might contain time limits on spousal support, provide some efforts towards rehabilitation, provide for uniformity statewide, and curtail lawyers from advising clients not to get a job in order to increase maintenance. Committee members would also review the use of no maintenance but an order for rent, car payments and insurance by some courts when preparing these guidelines.

d. Discussion of provision of long-term spousal support for an older, displaced homemaker with a small marital estate and no disability.

e. Creation of a model local domestic relations rule.

f. Changing visitation in the Indiana Code to parenting time. Investigation of alternatives to use of the word "custody."

g. Affiliation of Indiana courts with the American Family and Conciliation Courts national organization.

h. Exploration of "Collaborative Family Law" and "Cooperative Family Law" in Indiana.

i. Publishing a newsletter for judges with domestic relations jurisdiction. Recently an article was published indicating a parent moving out-of-state was detrimental to children. Articles of interest could be highlighted for courts.

j. Notification of relocation statute needs revision.

k. Development of uniform evidentiary models for financial statements in dissolution cases.

Sometimes it is hard to determine what each party wants financially in a contested dissolution case

based on their statement. Models would facilitate settlement. Model financial disclosure statements would be helpful.

1. Evaluation of the parenting time credit by Dr. David Betson, University of Notre Dame. Judge Scopelitis distributed a letter from Dr. Betson outlining his proposal for a study. Committee members agreed Dr. Betson should talk with Kurt Snyder about design of the case management system to assist in gathering data in the future about this and other family law cases. Judge McGillivray volunteered for an advisory board for the study. Committee members agreed to mention this proposal in the letter Judge Scopelitis is preparing to send to the Chief Justice. Members of the committee agreed the committee should tell Dr. Betson the committee is talking the Chief Justice favorably about his proposal.

10. Next meeting dates. The members of the committee agreed to meet again on Thurs.-Fri., Nov. 13-14, 2003 for an all day Judicial Center Workshop on Domestic Relations and hold no Nov. 2003 mtg.; Committee members said they were registered for the workshop in Indianapolis; They agreed to meet again on January 23, 2004 from 10:30 a.m. - 4:00 p.m. at the Indiana Judicial Center (Note: This is 4th Friday!) and February 20, 2004, March 19, 2004, April 16, 2004, May 21, 2004, July 16, 2004 and August 20, 2004, all from 10:30 a.m. to 4:00 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

STANDARDS AND GUIDELINES FOR ESTABLISHMENT OF ALTERNATIVE DISPUTE RESOLUTION FUND PLAN

The Domestic Relations Committee in conjunction with the Alternative Dispute Resolution Committee and the Juvenile Justice Improvement Committee have developed the following standards and guidelines for implementation of an Alternative Dispute Resolution Fund Plan pursuant to Indiana Code 33-4-13(1) and Rule 1.11 of the Rules For Alternative Dispute Resolution. The approval of a Fund Plan by the Executive Director of the Indiana Supreme Court Division of State Court Administration will be based upon compliance with these standards and guidelines.

[Note: “Standards” are general provisions that must be in any Plan, e.g. all plans must provide for the disbursement of ADR Fund money in a way that primarily benefits those who can least afford to pay. “Guidelines” are merely suggested means to satisfy the standard requirements, e.g. the ADR Fund money will be used to pay for parental counseling for all parties whose combined income is below ___% of the federal poverty level.]

STANDARDS

The Alternative Dispute Resolution Fund Plan must be based on the following standards:

1. The funds must be used to foster domestic relations alternative dispute resolution including mediation, reconciliation, nonbinding arbitration, and parental counseling and the Plan must specify whether referral will be mandatory, at the parties’ discretion or a combination of both. The ADR rules apply if mediation is utilized.
2. The Plan must be approved by a majority of the judges in the county exercising jurisdiction over domestic relations and paternity cases.
3. The Plan must primarily benefit those litigants who have the least ability to pay.
4. The Plan must require a co-payment for services in an amount determined by the court based upon the litigant’s ability to pay.
5. A party currently charged with or convicted of a crime under IC 35-42 or a crime in another jurisdiction substantially similar may not participate in the Plan.
6. An Annual Report containing the data requested (see attached form) must be submitted to the Judicial Conference of Indiana by December 31 of each year. Failure to submit the Annual Report will suspend operation of the Plan until further notice from the Division of State Court Administration.

GUIDELINES

The Alternative Dispute Resolution Fund Plan should contain the following information tailored to implement the particular purpose of the program:

1. *Program Overview.* A description of the Plan’s particular purpose or goal and the types of cases referred to the Plan. This should include reference to the forms of alternative dispute

resolution adopted by the Plan as well as indicating the date the Plan is to be effective and when the county will begin collecting the \$20.00 fee.

2. Eligibility Criteria. A description of the criteria used in determining if a party may participate in the Plan. This should include the financial qualifications of the parties including a co-payment requirement and how the co-payment will be determined. A reference to parties who may not participate in the Plan by statute should also be included.

3. Referral Process. A description of how a case is referred to the Plan. A referral may occur through the use of an application, by request of counsel or a party pro se, by the court on its own motion, or by any other method designed to apply the eligibility criteria.

4. Plan Education. A description of how information about the Plan, including the assessment of a \$20.00 fee, will be distributed to the various sectors of the county, including but not limited to attorneys, other court/government personnel, social service agencies and providers, and the general public.

5. Plan Coordination. A description of how the Plan and the funds generated will coordinate with any or all of the programs that may exist in the county: other ADR/mediation/facilitation programs or practices, family courts/project, court interpretive services, CIP funded projects, GAL/CASA programs and pro se/pro bono programs.

6. Plan Administration. A description of how the Plan will be administered after a case is referred to the Plan including who is eligible to mediate, the use of senior judges as mediators, the process of selecting and notifying a mediator, the hourly fee paid under the Plan, any limitations of time or expense per mediation, and the method of evaluating the results realized. The Plan should designate the person(s) responsible for management of the fund.

7. Plan Evaluation. A description of how success of the Plan will be measured, by means of case/calendar analysis, integration with other programs, sufficiency and dedication of resources, satisfaction of participants, etc.

8. Projected Budget. An estimate regarding the revenues to be generated from filing fees based upon prior cases filed and a reference to any other sources of funding such as grants from local organizations. The budget should distinguish between a circuit court fund and a superior court fund if both courts are involved and should estimate the amount of money the county expects to spend on identifiable aspects of the Plan.

TO THE JUDICIAL CONFERENCE OF INDIANA
ANNUAL REPORT ON EVALUATION OF
ALTERNATIVE DISPUTE RESOLUTION FUND PLAN

For December 1 through November 30, 200__

Pursuant to the provisions of IC 33-4-13 *et. seq.*, the following report is submitted to the
Judicial Conference of Indiana evaluating the _____ Court's Alternative
Dispute Resolution Fund Plan.

A. Total Number of referred cases from Dec.1 through Nov. 30: _____

1. Total number of referred cases by category:

Dissolutions w/children	_____
Dissolutions w/o children	_____
Legal Separations w/children	_____
Legal Separations w/o children	_____
Paternity	_____
Other _____	_____

2. Total number of referred cases by eligibility criteria:

Below Federal Poverty Level	_____
Above Federal Poverty Level	_____

3. Number of cases referred by method of resolution:

Mediation	_____
Reconciliation	_____
Facilitation	_____
Nonbinding Arbitration	_____
Parental Counseling	_____
Other _____	_____

B. Total number of children affected by Alternative Dispute Resolution Fund Plan _____

C. Total of \$20.00 fees generated by Plan \$_____

D. Total co-payments paid under the Plan \$_____

E. Plan administrative (overhead) costs paid \$ _____

F. Balance in program fund account on November 30: \$_____

G. Total fund payments by method of resolution:

(Do not include any co-payments.)

	<u>Total Fund Payments</u>	<u>Average payment for each case [G. ÷ A.(3)]</u>
Mediation	\$ _____	_____
Reconciliation	\$ _____	_____
Facilitation	\$ _____	_____
Nonbinding Arbitration	\$ _____	_____
Parental Counseling	\$ _____	_____
Other _____	\$ _____	_____

H. Results by method of resolution:

<u>Method</u>	<u>Total Cases</u>	<u>Settled</u>	<u>Partially Settled</u>	<u>Unresolved</u>
Mediation	_____	_____	_____	_____
Reconciliation	_____	_____	_____	_____
Facilitation	_____	_____	_____	_____
Nonbinding Arbitration	_____	_____	_____	_____
Other _____	_____	_____	_____	_____

Completed

Parental Counseling	_____	_____
---------------------	-------	-------

Date Submitted: _____

Submitted By: _____
Judge

Court

This Report must be submitted to the Judicial Conference of Indiana by December 31 of each year and must represent information verified from December 1 through November 30. A report must be filed separately by the Circuit Court and the Superior Court(s).